IN THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

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		:	10 CV 6231 (BSJ)(RLE)
CAROL MARTUCCI,		:	
		:	
	Plaintiff,	:	
		:	
- VS		:	DECLARATION OF
		:	JASON NEWFIELD
HARTFORD LIFE INS. CO.		:	
		:	
		:	
	Defendant.	:	
	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	X	

Pursuant to 28 U.S.C. § 1746, Jason Newfield states as follows:

- 1. I am a Partner with Frankel & Newfield, P.C. and I am counsel of record for the Plaintiff, Carol Martucci, in this matter.
- 2. Annexed hereto as Exhibit "A" is a true and correct copy of documents produced by Hartford in a litigation entitled Testa v. Hartford Life Ins. Co., (E.D.N.Y.), 08-cv-816. This Exhibit is a Best Practices Memo from Hartford to its claim personnel. Although the document is marked confidential, pursuant to the direction of Judge Block, none of the documents produced in that litigation were filed under seal, and are no longer confidential documents.
- 3. Annexed hereto as Exhibit "B" is a true and accurate copy of the deposition of Bruce Luddy, taken May 28, 2010, in connection with an action entitled Penny Bender v. Hartford Life Ins. Co., (N.D. Cal.), 09-cv-1163.
- 4. Annexed hereto as Exhibit "C" is a true and correct copy of an Affirmation of Scott Reimer, Esq., dated May 17, 2011, counsel for Plaintiff in an action entitled Karen Barrett v. Hartford Life & Acc. Ins. Co., (S.D.N.Y.) 10-CV-4600. The materials attached to this Affirmation submitted with this motion include the performance appraisals of Hartford employees as well as descriptions of the Hartford Business Performance Award and Individual Performance Award. The Affirmation notes that these documents are not confidential, despite containing a confidential marking.
- 5. Annexed hereto as Exhibit "D" is a report from Dr. Christopher Snell, current Chair of the Chronic Fatigue Syndrome Advisory Committee, a Federal Advisory Committee created to provide advice and recommendations to the Secretary of Health and Human Services on issues related to Chronic Fatigue Syndrome.

6. In support of Plaintiff's request to take the deposition of Bruce Luddy, it is readily apparent that Hartford has offered his declaration to provide "evidence" on critical issues before the Court on the parties cross-motions for summary judgment. Hartford failed to disclose Bruce Luddy as a witness in its initial disclosures, and thus, has submitted this material improperly. Thus, the Declaration should be struck. If it is not struck, his deposition should be permitted, to address and probe the veracity of the statements contained within the Declaration. Documents submitted herein by Martucci raise concerns about the veracity of the Declaration, and a deposition would permit Martucci to more fully probe these issues, and inform the Court on the weight, if any, to be afforded to this Declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 18, 2011

Jason Newfield